

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**ARBOR PROPERTIES DEVELOPMENT,
INC., d/b/a ARBOR PROPERTIES, et al.**

PLAINTIFFS

VS.

CIVIL ACTION NO. 1:06CV573 LTS-RHW

**WESTCHESTER SURPLUS LINES
INSURANCE COMPANY, et al.**

DEFENDANTS

AGREED ORDER

BEFORE the Court is Defendant Westchester Surplus Lines Insurance Company's ("Westchester") Motion [105] to Determine Controlling Law and For Partial Summary Judgment on Count IV of the Amended Complaint for Declaratory Relief, Breach of Contract, Bad Faith and Other Relief. Counsel for Plaintiff Arbor Properties Development, Inc. ("Arbor") and counsel for Westchester have conferred, reached agreement, and hereby stipulate that Mississippi law provides the controlling law for claims brought by Arbor against Westchester, and that the parties are in agreement to the relief granted by this Order. This Court finds that the stipulation is in order, and that Mississippi law shall apply to this case.

IT IS THEREFORE ORDERED AND ADJUDGED that:

1. Mississippi provides the controlling law for all claims by Arbor against Westchester in this action;
2. Count VI of the Amended Complaint is hereby dismissed with prejudice;
3. Any claim by Arbor based on Florida statute or Florida common law is hereby dismissed with prejudice;

4. Where Arbor has pled claims in the alternative under both Mississippi and Florida law, the claim under Mississippi is unaffected by this Order;

5. Arbor's claims under Mississippi law remain as pled and are unaffected by this Order; and

6. Westchester's Motion to Determine Controlling Law and for Partial Summary Judgment on Count VI of the Amended Complaint for Declaratory Relief, Breach of Contract, Bad Faith and Other Relief is hereby withdrawn.

SO ORDERED, this the 7th day of March, 2007.

s/ L. T. Senter, Jr.
Senior Judge

AGREED TO:

s/ Stephen A. Marino
JAMES W. GUSTAFSON
STEPHEN A. MARINO
MARGARET P. ELLIS
Attorneys for the Plaintiffs

s/ Walter H. Boone
WALTER H. BOONE
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